

UNITED STATES DISTRICT COURT FOR THE DISTRICT
OF NORTH DAKOTA, WESTERN DIVISION

1
2 MONTANA OIL PROPERTIES, INC.,) Civil Cause No. _____
3 Ryan Family Mineral Partnership,)
4 S. Reger Family Partnership, and)
5 Baldrige Family Mineral)
6 Partnership,)
7 Plaintiff,)
8 -vs-)
9) COMPLAINT
10 WHITING OIL AND GAS CORPORATION,)
11)
12 Defendant.)
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COMES NOW Montana Oil Properties, Inc., Ryan Family
Mineral Partnership, S. Reger Family Partnership, and
Baldrige Family Mineral Partnership and for their cause of
action state as follows:

PARTIES

1. Montana Oil Properties, Inc. (herein "MOP") is a
Montana corporation with its principal place of business in
Billings, Montana.

2. Ryan Family Mineral Partnership is a partnership with
its principal place of business located in Billings, Montana.
Each and every partner of Ryan Family Mineral Partnership is
domiciled in Montana.

3. S. Reger Family Partnership is a partnership with its
principal place of business located in Billings, Montana. Each

1 and every partner of S. Reger Family Partnership is domiciled
2 in Montana.

3 4. Baldridge Family Mineral Partnership is a partnership
4 with its principal place of business located in Whitefish,
5 Montana. Each and every partner of Baldridge Family Mineral
6 Partnership is domiciled in Montana.

7 5. Defendant Whiting Oil and Gas Corporation (herein
8 "Whiting") is a Delaware corporation with its principal place
9 of business located in Denver, Colorado.

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11 JURISDICTION AND VENUE

12 6. This Court has jurisdiction pursuant to 28 U.S.C. §
13 1332 based on complete diversity of citizenship and the matter
14 in controversy exceeds \$75,000.00.

15 7. Venue is proper in the Western Division of the
16 District Court as the matter arises out of interest in real
17 property located in Mountrail County, North Dakota, under
18 D.N.D. Gen.1.1 (1).

19
20 FACTS

21 8. MOP took a number of oil and gas leases in Mountrail
22 County from mineral owners.

23 9. MOP, as Assignor, entered into an Assignment of Oil
24 and Gas leases with Whiting, as Assignee, assigning leases to
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1 Whiting which is dated November 10, 2005, recorded December
2 19, 2005, at Book 738, page 109 in the Office of the Mountrail
3 County Recorder.

4 10. A true and correct copy of the Assignment is attached
5 hereto as Exhibit "A".

6 11. Under the terms of the Assignment the Assignor, MOP,
7 reserved an overriding royalty interest in each of the
8 Assigned Leases, or any extensions or renewals of the Assigned
9 Leases, and amount equal to the difference between existing
10 burdens and 18.75%.

12 12. One of the leases covered by the Assignment from MOP
13 to Whiting was a lease from Bernice Auverson (herein "Auverson
14 lease").

15 13. The Auverson lease was dated April 22, 2005, recorded
16 at Book 727, page 316, in the Mountrail County Records
17 Office.

18 14. The Auverson lease had a primary term of five years
19 and a royalty rate of 16%.

20 15. By virtue of the reservation of overriding royalty by
21 MOP in the Assignment from MOP to Whiting, MOP created a 2.75%
22 overriding royalty interest, the difference between 18.75% and
23 the 16% royalty burden of the Auverson lease.
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1 16. Whiting was unable to get to all of the leases to
2 drill during the primary terms of the leases assigned to
3 Whiting by MOP.

4 17. Whiting elected to have MOP acquire additional leases
5 and extend leases.

6 18. MOP took new leases directly into Whiting's name and
7 extended other leases that had been assigned to Whiting.

8 19. As part of the compensation for acquiring the leases
9 and lease extensions Whiting assigned a two percent (2%) of
10 eight-eighths (8/8ths) overriding royalty to MOP in an
11 Assignment of Overriding Royalty.
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13 20. The Assignment of Overriding Royalty from Whiting to
14 MOP is dated July 7, 2010, recorded August 12, 2010, as
15 document 370557 in the Mountrail County Recorder's Office.

16 21. A true and correct copy of the Assignment of
17 Overriding Royalty is attached hereto as Exhibit "B".
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19 22. One of the leases that MOP extended for Whiting was
20 part of the Auverson lease.

21 23. After the extension MOP had a 4.75% overriding
22 royalty on the part of the Auverson lease that was extended.

23 24. Whiting drilled the Bartelson 44-31H well completing
24 that well in May, 2012.
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1 25. MOP assigned overriding royalty interests to Ryan
2 Family Mineral Partnership, S. Reger Family Partnership and
3 Baldridge Family Mineral Partnership.

4 26. Whiting drilled the following wells which are
5 included in the 1278.88 spacing unit comprised of sections 5
6 and 8, Township 153 North, Range 93 West:

7 Bartelson 44-31H well
8 Bartelson Federal 44-31-2H well
9 Bartelson Federal 44-31-2TFH well
10 Bartelson Federal 44-31-3H well
11 Bartelson Federal 44-31-3TFH well
12 Bartelson Federal 44-31-4H well
13 Bartelson Federal 44-31TFH well

14 27. Whiting prepared a division order making its own
15 calculations of the overriding royalties due to Plaintiffs and
16 sent those division orders to Plaintiffs.

17 28. The division orders prepared by Whiting honored both
18 the 2.75% overriding royalty created in the assignment from
19 MOP to Whiting and the 2% overriding royalty interest from the
20 Assignment of Overriding Royalty from Whiting to MOP.

21 29. Until recently, for approximately ten years Whiting
22 has paid this overriding royalty that it originally
23 calculated.
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1 30. Whiting's Vice President of Land who made all of the
2 contacts with MOP was David Seery. Mr. Seery retired and is
3 now deceased.

4 31. In approximately April, 2022 Whiting made a
5 unilateral decision that Whiting had been "incorrectly" paying
6 the overriding royalty.

7 32. Whiting claimed that when the Auverson lease was
8 extended and the royalty was increased to 18.75% the original
9 overriding royalty of 2.75% was "washed out".

10 33. Whiting unilaterally withheld overriding royalties
11 from the Plaintiffs not only for the Bartelson wells, but also
12 other wells not involved with the Auverson lease.
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14 COUNT I

15 QUIET TITLE

16 34. Plaintiffs incorporate Paragraphs 1-33 as though
17 fully set forth in this place.

18 35. Plaintiffs have an estate or interest in the oil,
19 gas, and other minerals produced and saved from the following
20 described real property situated in Mountrail County, North
21 Dakota:
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23 Township 153 North, Range 93 West
24 Section 8: Lot 1 (39.75), S2SE4, E2NW4, NE4SW4
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1 36. Plaintiffs are the Assignor and successors in
2 interest to the Assignor MOP under that Assignment of Oil and
3 Gas Leases who own the overriding royalty reserved therein,
4 said Assignment previously identified herein and attached
5 hereto as Exhibit "A".

6 37. Plaintiffs claim certain estates or interests or
7 liens or encumbrances in the above-described property that are
8 adverse to the defendants.

9 38. The 2.75% overriding royalty on the Auverson lease
10 cannot be reduced without the express written consent of
11 Plaintiffs.
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13 39. The Assignment of Overriding Royalty previously
14 identified and attached hereto as Exhibit "B" created an
15 additional 2% overriding royalty burden on the lands described
16 above under the Auverson lease.

17 40. Plaintiffs are entitled to a decree quieting title to
18 a 2.75% overriding royalty in the entire Auverson lease and a
19 decree quieting title to the 2% overriding royalty that was
20 given by Whiting on that part of the Auverson lease that was
21 extended.
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COUNT II

DECLARATORY JUDGEMENT

41. Plaintiffs incorporate paragraphs 1-40 above by reference.

42. A case or controversy exists between the parties that warrants declaratory relief.

43. Plaintiffs are entitled to a declaratory judgment pursuant to Chapter 32-23 of the North Dakota Century Code that:

(a) Plaintiffs have a 2.75% royalty covering all of the lands contained in the Auverson lease.

(b) Plaintiffs have an additional 2% overriding royalty interest in that part of the Auverson lease that was extended.

COUNT III

CONVERSION

44. Plaintiffs incorporate paragraphs 1-43 above by reference.

45. Plaintiffs are the owners of overriding royalty interests produced and saved from the Auverson lease.

46. Whiting has unilaterally decided that it has overpaid Plaintiffs and has withheld overriding royalties owed to the

1 Plaintiffs not only from the Auverson lease but other leases
2 in Mountrail County.

3 47. As the owners of the above-described overriding
4 royalty interests, Plaintiffs are entitled to the proceeds
5 from these interests which have been produced and saved.

6 48. Whiting has converted and continues to convert
7 Plaintiffs' property by withholding payments for overriding
8 royalties,

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10 49. Plaintiffs have suffered damages and continue to
11 suffer damages as a result of Whiting's conversion.

12 50. Plaintiffs are entitled to judgment for the converted
13 property with interest.

14 COUNT IV

15 ACTION FOR ACCOUNTING
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17 51. Plaintiffs reallege paragraphs 1-50 by reference.

18 52. Whiting is in possession of the proceeds of
19 overriding royalty revenue from the sale of oil, gas and other
20 minerals that belong to the Plaintiffs, and all the records of
21 production.
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1 53. Plaintiffs are the rightful owners of oil, gas and
2 other minerals that have been produced and saved and continued
3 to be produced and saved from the Auverson lease.

4 54. Whiting must be made to provide an accounting for all
5 oil, gas and other minerals and the proceeds from sales of the
6 oil, gas and other minerals that constitute overrides that
7 have been withheld from Plaintiffs.

8 WHEREFORE, having fully stated its claims, Plaintiffs
9 pray for judgement as follows:
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11 1. For a judgment quieting title to the subject property
12 in favor of the Plaintiff and against Whiting;

13 2. For a judgment declaring that the subject property is
14 owned free and clear by the Plaintiffs, free and clear of any
15 claim, encumbrance or interest of the Defendant Whiting or
16 anyone claiming under Whiting and that Whiting has no claim,
17 right, title or interest in the subject property;

18 3. For a judgment declaring that the Plaintiffs are the
19 absolute owners of the subject property and are entitled to
20 peaceful possession of the subject property;
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22 4. For a judgment against Whiting for conversion of the
23 Plaintiffs' property;
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